

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

WILLIE McCLENDON, #242 208,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:21-CV-307-WKW-CSC
)	[WO]
DR. BARRET, et al.,)	
)	
Defendants.)	

WILLIE McCLENDON, #242 208,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:21-CV-308-WKW-CSC
)	[WO]
MICHAEL BOROWICZ,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Pro se Plaintiff Willie McClendon, filed this 42 U.S.C. § 1983 action on April 26, 2021. Defendants have since filed a Written Report with supplements and supporting evidentiary materials denying Plaintiff's allegations in the Complaint. Docs. 11, 14, 16, 17. On July 22, 2021, the Court instructed Plaintiff to file a response to Defendants' materials by August 12, 2021. Doc. 18. The Court cautioned Plaintiff his failure to file a response would result in a recommendation this case be dismissed for failure to prosecute. *Id.* To date, Plaintiff has not filed a response to Defendants' materials or otherwise complied with the Court's July 22, 2021, Order.

A federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute or obey a court order. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); FED. R. CIV. P. 41(b). The Eleventh Circuit has made clear that “dismissal is warranted only upon a ‘clear record of delay or willful contempt and a finding that lesser sanctions would not suffice.’” *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)). Here, the undersigned finds that Plaintiff has willfully failed to file a response in compliance with the Court’s July 22, 2021, Order. And considering Plaintiff’s disregard for the orders of this Court, the undersigned further finds sanctions lesser than dismissal would not suffice in this case.

Accordingly, the undersigned Magistrate Judge **RECOMMENDS** this case be **DISMISSED** without prejudice.

It is **ORDERED** that objections to the Recommendation must be filed **by October 6, 2021**. Any objections filed by a party must specifically identify the factual findings and legal conclusions in the Magistrate Judge’s Recommendation to which objection is made. Frivolous, conclusive or general objections will not be considered by the District Court. This Recommendation is not a final order and, therefore it is not appealable. Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge’s report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall “waive the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions” except upon grounds of plain error if necessary in the interests of justice. 11TH Cir. R. 3-

1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

Done, this 22nd day of September 2021.

/s/ Charles S. Coody
CHARLES S. COODY
UNITED STATES MAGISTRATE JUDGE